

**Action Item:**

Consider directing staff to research and prepare a recommendation to the board regarding a city of Rio Vista request that the board remove a SSJDD deed restriction on property on which the City of Rio Vista holds fee title.

## THE CENTRAL VALLEY FLOOD PROTECTION BOARD – MAY 15, 2009

### Action Item No. 10

#### **SUBJECT:**

The City of Rio Vista (“City”) has requested the Board remove the restriction that would allow the City to sell the property to generate revenue for the City. The Deed Restriction created by the Sacramento and San Joaquin Drainage District (“SSJDD”) for the property owned in fee by the City established a condition that the “land must be used for any of its lawful governmental functions.”

#### **LOCATION:**

The property is located in the City of Rio Vista in Solano County at the corner of Airport Road and Saint Francis Way, consisting of more or less 108.75 acres.

#### **BACKGROUND:**

The SSJDD sold the property to the City on July 31, 1952 for \$2,175. The Grant Deed for the property included restrictions: to-witt- As a site for a municipal airport, as a site for garbage disposal and as a site for recreational uses (*See* 1952 Grant Deed). In 1970, the City requested a modification to the original 1952 Deed to change the purposes of which the property could be used. On June 26, 1970, the SSJDD recorded a “Corrected Deed” against the property, which deleted the original restriction on said property, and superseded that restriction with a requirement that the Property “be used solely and exclusively for any of its [the City’s] lawful governmental functions.” (*See* Corrected Deed, enclosed). At the time a veteran’s memorial was proposed.

By the late 1980s the property was still underutilized, and the City had no plans to develop the previously contemplated veteran’s memorial. In order to generate revenue and place the property into productive use, the City wanted to sell the property for development of a business/industrial park. At that time, the City entered into preliminary discussions with the Reclamation Board to remove the restriction contained in the Corrected Deed to allow for the sale of the Property. However a dispute arose as to whether the restriction had to be removed prior to sale of the property, and whether SSJDD should be compensated in exchange for the removal of the restriction.

Because the language in question cannot be deleted from the Deed, per the Attorney General’s office, the City needed to have a legislative determination. In 1989 Assembly Member Thomas Hannigan carried AB 1460 that would clarify that “lawfully governmental functions” in the City’s Deed to mean any and all functions which a city may carry out, except for the sale of the property. AB 1460 was signed by the Governor. This bill passed in July 21, 1989 as Chapter 195.

Since 1989, the City has attempted to develop the Property as a business/industrial park by leasing portions of the property to different business, with limited success. Many of the businesses that have expressed interest in moving to the city of Rio Vista would prefer to acquire property for their operations. The city is in a dire financial situation due to the real estate slow down and other issues.

#### **REQUEST:**

- Consider directing staff to research and prepare a recommendation to the Board regarding the City's request that the Board remove a SSJDD deed restriction on property on which the City holds fee title.
- Funding of staff time for the research and presentation to the Board have the following implications:
  - No vote: Board does not wish to revisit this issue regardless who pays for the staff time.
  - Yes vote - A: Board wishes to review issue and all staff time paid by the Board.
  - Yes vote – B: Board wishes to review issue and staff time paid completely by City.

#### **ESTIMATED ACTIVITIES AND ASSOCIATED COSTS:**

1. Researching the original minutes of the Reclamation Board when the property was sold to Rio Vista to determine why the restriction was originally placed  
10 -20 hrs\*
  - Original Deed
  - Corrected Deed
  - Legislation
  - Dispute leading to legislation
2. Search of Real Estate Records  
10 hrs\*
  - Memos, documenting any/all of these transactions
3. Legal determination:  
40 hrs (overhead)
  - A. Compensation of release of restriction
  - B. Is legislation needed to remove clause "other than the sale of the real property described therein".
  - C. Appropriate instrument to remove restriction (e.g. conveyance instrument; Board Resolution)
4. Geodetic document prep,  
20 -40 hrs\*
  - Appraisal Exhibit
  - Review of legal description
  - Transfer document development

5. Appraisal of the value of the deed restriction to the state or if City does appraisal, review of the appraisal 15-30 hrs\*
6. Agent working with title company to remove restriction / Real Estate and Title Company chain of command review 8-10 hrs\*
7. Board presentation & preparation 15-25 hrs\*
- Collect all data
  - Present to Board
  - Present in Board packet

*\*Associated costs: Real Estate staff is billed at \$90 an hour and Geodetic staff at \$130 an hour. The above work is estimated in the range of \$6,200 - \$11,320. This does not include possible attorney general's review cost which is billed approximately \$300 an hour.*

**ATTACHMENTS:**

- Original Deed No. 15676 recorded November 7, 1952
- Corrected Deed No. 14530 recorded August 7, 1970
- Statutes of California, Chapter 195
- Assessor's parcel map

**STAFF RECOMMENDATION:**

The request from the city of Rio Vista does not appear to be of any benefit to the State of California or the Board. Staff is also not certain that once research is completed and legal opinions are obtained, that the restrictions can be lifted without further legislation. Staff recommendation is neutral.



Ms Change  
for Recording

1-2 JSH:FK 7/23/52

15676

RECORDED AT REQUEST OF

*[Signature]*

at *3:40* min. past *7 P.*

NOV 7 1952

Official Records

Solano County, California

M. E. BULLINGHAM, Recorder

*[Signature]*

BLON 642 REC 373

D E E D

For and in consideration of the payment of the sum of Two Thousand One Hundred Seventy-five and no/100 Dollars (\$2175.00), the SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, a public agency, hereinafter designated "GRANTOR", acting by and through The Reclamation Board of the State of California, pursuant to Section 8598(d) of the Water Code, State of California, does hereby grant to the CITY OF RIO VISTA, California, hereinafter designated "GRANTEE", all that certain real property situated in the County of Solano, State of California, described as follows:

All that certain parcel or tract of real property situate, lying in and being a portion of Tracts 3, 4 and 5 of Rancho Los Ulpinos or Bidwell Grant, Solano County, California; as said tract is shown and delineated upon that certain map or plat entitled, "Map or plan of a portion of the Rancho Ulpinos or Bidwell Grant belonging to Chapman and Torode", as the same was filed for record in the office of the County Recorder of the County of Solano, State of California, on May 30, 1861, and more particularly described as follows:

Beginning at an iron pipe on the southwesterly line of Suisun Avenue said pipe being the most easterly corner of that certain 9.52 acre tract conveyed to the Sacramento and San Joaquin Drainage District by M. Avila et ux. by deed dated January 23, 1926, and recorded February 5, 1926, in Book 280 of Deeds at page 13, Solano County Records; THENCE FROM SAID POINT OF BEGINNING, along said southwesterly line, the following three courses:

- (1) North 44° 36' 00" West 1135.35 feet;
- (2) North 44° 42' 00" West 181.00 feet; and
- (3) North 44° 46' 00" West 484.11 feet to a point;

thence leaving said southwesterly line, South 44° 54' 41" West 2,395.21 feet to a point; thence South 45° 06' 30" East 2,165.50 feet, more or less, to the southeasterly line of said Tract 3; thence along said southeasterly line the following three courses:

- (1) North 36° 19' 00" East 1081.70 feet;
- (2) North 35° 51' 00" East 346.00 feet; and
- (3) North 36° 10' 54" East 981.29 feet, more

or less, to said southwesterly line of Suisun Avenue and the point of beginning, containing 108.75 acres, more or less.

The North Meridian used in this survey is identical with that adopted by the Department of the Army, Corps of Engineers, for this area.



RECORDING REQUESTED BY

CITY OF RIO VISTA

WHEN RECORDED MAIL TO:

CITY OF RIO VISTA

CITY HALL

RIO VISTA, Ca

14530

*[Signature]*  
301 7/14  
AUG 1 1970

OFFICIAL RECORDS P.  
SOLANO COUNTY, CALIF.  
*[Signature]*  
COUNTY CLERK

Space above this line for recorder's use

CORRECTED DEED

WHEREAS, the Sacramento and San Joaquin Drainage District, acting by and through The Reclamation Board of the State of California, granted to the City of Rio Vista, California, all of that certain real property situated in the County of Solano, State of California, described as follows:

All that certain parcel or tract of real property situate, lying in and being a portion of Tracts 3, 4 and 5 of Rancho Los Ulpinos or Bidwell Grant, Solano County, California; as said tract is shown and delineated upon that certain map or plat entitled "Map or plan of a portion of the Rancho Ulpinos or Bidwell Grant belonging to Chapman and Torode", as the same was filed for record in the office of the County Recorder of the County of Solano, State of California, on May 30, 1961, and more particularly described as follows:

Beginning at an iron pipe on the southwesterly line of Suisun Avenue said pipe being the most easterly corner of that certain 9.52 acre tract conveyed to the Sacramento and San Joaquin Drainage District by M. Avila et ux., by deed dated January 23, 1926, and recorded February 5, 1926, in Book 280 of Deeds at page 13, Solano County Records; THENCE FROM SAID POINT OF BEGINNING, along said southwesterly line, the following three courses:

- (1) North 44° 36' 00" West 1135.35 feet;
- (2) North 44° 42' 00" West 181.00 feet; and
- (3) North 44° 46' 00" West 484.11 feet to a point;

thence leaving said southwesterly line, South 44° 54' 41" West 2,395.21 feet to a point; thence South 45° 06' 00" East 2,165.50 feet, more or less, to the southeasterly line of said Tract 3; thence along said southeasterly line the following three courses:

- (1) North 36° 19' 00" East 1081.70 feet;
- (2) North 35° 51' 00" East 346.00 feet; and
- (3) North 36° 10' 54" East 981.29 feet, more

or less, to said southwesterly line of Guisun Avenue and the point of beginning, containing 108.75 acres, more or less.

The north meridian used in this survey is identical with that adopted by the Department of the Army, Corps of Engineers, for this area.

WHEREAS, within the context of the deed conveying the above property there is an express condition that the said property shall be used solely and exclusively by the City of Rio Vista for any one or more of the following purposes: As a site for a municipal airport, as a site for garbage disposal and as a site for recreational uses;

WHEREAS, the Reclamation Board has authorized that said use restrictions be deleted and superseded;

NOW, THEREFORE, the use restrictions contained in that certain deed dated July 31, 1952, and recorded November 7, 1952, Book 642, page 373, Official Records of Solano County are hereby deleted and are superseded by the restriction that the hereinabove described property be used solely and exclusively for any of its lawful governmental functions.

Dated June 26, 1970

SACRAMENTO AND SAN JOAQUIN DRAINAGE  
DISTRICT, acting by and through The  
Reclamation Board of the State of  
California

By John L. McQuinn  
President

By Donald R. Hanning  
Secretary

Approved as to Legal Form

Allen L. W. W. W.  
Counsel



STATE OF CALIFORNIA }  
COUNTY OF SACRAMENTO }

On this 26<sup>th</sup> day of June

A.D. 1970, before me,

*Sylvia A. Blake*

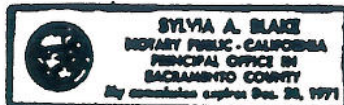
, a Notary Public in and for the said county and State.

daily commissioned and qualified, personally appeared *Wallace M. Cormack*

and *Ronald R. Harrington*

, known to me to be the President and Secretary, respectively, of The Reclamation Board of the State of California, and acknowledged to me that they executed the foregoing instrument for and on behalf of The Reclamation Board of the State of California.

In Witness Whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



*Sylvia A. Blake*  
Notary Public in and for the County of Sacramento,  
State of California

BOOK 1638 PAGE 688



## → CHAPTER 195

An act relating to public property.

[Approved by Governor July 21, 1989. Filed with  
Secretary of State July 21, 1989.]

*The people of the State of California do enact as follows:*

SECTION 1. The phrase "lawful governmental functions" as used in that certain deed from the Sacramento and San Joaquin Drainage District to the City of Rio Vista dated June 26, 1970, and recorded on August 17, 1970, in Book 1638 at Pages 686 to 688, inclusive, as Instrument No. 14530, shall mean any and all functions which may be carried out by a municipality, other than the sale of the real property described therein.

## CHAPTER 196

An act to amend Section 26349 of the Government Code, relating to bonds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1989. Filed with  
Secretary of State July 25, 1989.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 26349 of the Government Code is amended to read:

26349. The bonds issued under this chapter, except for those revenue bonds issued pursuant to Article 9 (commencing with Section 26400.50), shall be subject to investigation and certification by the Treasurer under the Districts Securities Law (Chapter 1 (commencing with Section 20000) of Division 10 of the Water Code). If the Treasurer determines that the bonds are adequately secured and the revenues of the authority applicable to the payment thereof are or will be sufficient to pay the principal and interest of the bonds, and if the Treasurer certifies to that effect, the bonds shall be eligible as legal investments for both public and private funds in the same manner as provided in the Districts Securities Law (Chapter 1 (commencing with Section 20000) of Division 10 of the Water Code).

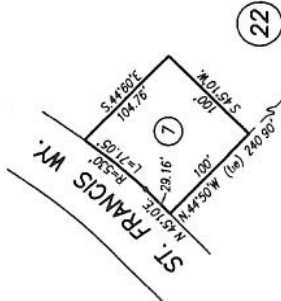
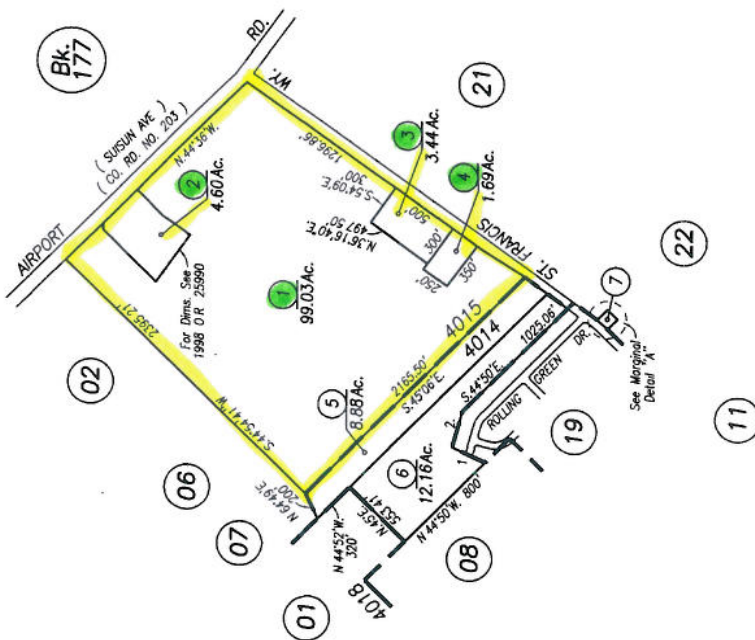
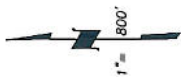
SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that bonds may be issued during 1989 to finance the improvements needed by county airports, it is necessary for this act

POR. LOT 37, RANCHO DE LOS ULPINOS  
 POR. SEC. 19 & 30, T.4N., R.3E., M.D.B. & M. EXT.

Tax Area Code  
 4014  
 4015

178-20



MARGINAL DETAIL "A"  
 Scale: 1"=100'

1	N 25°10'E	255
2	S 74°20'25"E	274.87
3	R=125'	L=106.91'
4	R=200'	L=255.28'
5	N 42°00'E	80.08'
6	S 46°00'E	19.18'
7		
8		
9		
10		

NOTE: This map is for assessment purposes only and is not for the intent of interpreting legal boundary rights, zoning regulations and/or legality of land division laws.

NOTE: Assessor's Block Numbers Shown in Ellipses  
 Assessor's Parcel Numbers Shown in Circles

REVISION	DATE	BY

Per. to Pg.22(Fm)	10-20-06	CR
Remap From Bk.48	12-31-02	PD

CITY OF RIO VISTA  
 Assessor's Map Bk.178 Pg. 22  
 County of Solano, Calif.

MAY 3 1 2007

07-08

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